

Message Text

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ARA/APU RFELDER (DRAFT)

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FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES IMMEDIATE

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E.O. 11652: N/A

TAGS: AR, EFIS

SUBJECT: VANOLI INTEREST IN U.S. VESSEL "SEA FREEZE
-ATLANTIC"

REF: A) BARTCH/GANTZ MEMO, NOV. 11, 1975

B) SMITH/FELDER TELECON, DEC. 29, 1975

1. L HAS REVIEWED MATTER IN CONSULTATION WITH DEPT. OF
COMMERCE, AND HAS CONCLUDED THAT WHILE PROVISIONS OF U.S.
FISHING FLEET IMPROVEMENT ACT DO NOT EXPRESSLY PROHIBIT
OR PERMIT SEC. COMMERCE TO AUTHORIZE TRANSFER OF SUB-
SIDIZED VESSELS TO FOREIGN FLAG, POSITION TAKEN BY COMMERCE
IN THIS CASE IS LEGALLY SUPPORTABLE AND IS CONSISTENT WITH
MANNER IN WHICH LAW HAS BEEN APPLIED IN PAST CASES.

2. BY WAY OF BACKGROUND, COMMERCE ADVISES THAT ON NUMEROUS
OCCASIONS DURING PAST FIVE YEARS, REQUESTS HAVE BEEN SUB-
MITTED TO TRANSFER OR CHARTER "SEA FREEZE ATLANTIC" AND/OR
SISTER SHIP "SEA FREEZE PACIFIC" TO FOREIGN INTERESTS
(E.G. PROPOSALS HAVE BEEN MADE TO TRANSFER VESSEL, INTER
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ALIA, TO ICELAND, PERU AND KOREA). OWNERS' INTEREST IN

TRANSFERRING VESSELS IS LARGELY FINANCIAL. VESSELS COST \$5 MILLION EACH TO CONSTRUCT, WITH 50 PERCENT OF COST SUBSIDIZED BY USG. AT PRESENT TIME, STATUTORY RESTRICTIONS HAVE MADE COMMERCIAL OPERATION OF VESSELS RELATIVELY UN-

PROFITABLE, AND THEY ARE THEREFORE WORTH ONLY ABOUT \$2 MILLION AS LONG AS THEY REMAIN SUBJECT TO SUCH RESTRICTIONS. HOWEVER, IF RESTRICTIONS WERE REMOVED SO THAT VESSELS COULD BE TRANSFERRED TO FOREIGN CONTROL, COMMERCIAL VALUE WOULD RISE TO APPROXIMATELY \$8 MILLION. ALTHOUGH COMMERCE HAS RECOGNIZED THAT FROM A POLICY STANDPOINT IT IS DIFFICULT TO JUSTIFY RESTRICTIONS WHICH HAVE THE EFFECT OF MAKING VESSELS COMMERCIALY UNPROFITABLE TO OPERATE, THEY HAVE BEEN CONSTRAINED BY REQUIREMENTS OF FISHING FLEET IMPROVEMENT ACT AND THEREFORE ALL PREVIOUS REQUESTS HAVE BEEN DENIED. IN THOSE INSTANCES, COMMERCE ADVISED OWNERS THAT ONLY ALTERNATIVE WOULD BE TO SEEK LEGISLATION AUTHORIZING THE TRANSFERS. (HOWEVER, IN CONNECTION WITH INITIAL REQUESTS, COMMERCE CONSULTED WITH KEY MEMBERS OF CONGRESS, AND FOUND THEM GENERALLY WARY OF ANY PROPOSAL TO TRANSFER SUBSIDIZED VESSELS TO FOREIGN CONTROL DUE TO CONCERNS OF U.S. LABOR UNIONS AND OTHER U.S. INTERESTS.)

3. IN VIEW OF FOREGOING, DEPT. REQUESTS THAT EMBASSY CONTACT DR. VANOLI AND EXPLAIN SITUATION ALONG FOLLOWING LINES:

-- DEPT. HAS LOOKED INTO MATTER, AND HAS FOUND THAT THE POSITION TAKEN BY THE COMMERCE DEPT., WHICH IS THE RESPONSIBLE AGENCY WITHIN THE EXECUTIVE BRANCH, IS IN ACCORDANCE WITH U.S. LAW AS IT HAS BEEN CONSISTENTLY APPLIED IN THE PAST.

-- THE USG HAS BEEN UNABLE TO APPROVE PREVIOUS PROPOSALS TO TRANSFER THE VESSEL IN QUESTION ON ACCOUNT OF THE RESTRICTIONS APPLICABLE TO SUBSIDIZED VESSELS UNDER U.S. LAW, DESPITE THE FACT THAT CERTAIN OF THESE EARLIER PROPOSALS INVOLVED SITUATIONS WHERE THERE WERE STRONG POLICY REASONS IN FAVOR OF A TRANSFER.
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-- THUS, WHILE WE REGRET THAT WE CANNOT BE HELPFUL, THERE IS NO QUESTION OF DISCRIMINATION AGAINST ARGENTINA IN THE DENIAL OF THE OWNER'S REQUEST TO TRANSFER THE VESSEL. RATHER, ABSENT A CHANGE IN THE LAW, THE USG DOES NOT HAVE THE LEGAL AUTHORITY TO APPROVE REQUESTS TO TRANSFER THE VESSEL TO THE CONTROL OF ANY OTHER NATION. KISSINGER

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